

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-57684; File No. SR-CHX-2008-03)

April 18, 2008

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Order Granting Approval of Proposed Rule Change to Amend Rules Relating to Fingerprint-Based Record Checks

I. Introduction

On February 26, 2008, the Chicago Stock Exchange, Inc. (“CHX” or “Exchange”), filed with the Securities and Exchange Commission (“Commission”) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend rules relating to fingerprint-based criminal record checks of Exchange staff and other persons. The proposed rule change was published for comment in the Federal Register on March 18, 2008.<sup>3</sup> The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

As part of its trading model rule set, the Exchange included a fingerprint rule that requires the Exchange to conduct fingerprint-based criminal record checks of Exchange staff, certain independent contractors and other persons that have regular access to the Exchange’s facilities and premises.<sup>4</sup> The Exchange proposes to amend this rule to remove the requirement that the Exchange conduct these fingerprint-based background checks. The Exchange believes that those criminal record background checks of staff and consultants may be obtained through more efficient means. This proposal has no impact on the fingerprinting obligations that apply to

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 57479 (March 12, 2008), 73 FR 14516 (March 18, 2008).

<sup>4</sup> See Article 6, Rule 10(b) of the Exchange’s Rules.

Exchange participants and participant firm personnel. The Exchange will continue to require its participants to adhere to applicable fingerprinting obligations.<sup>5</sup>

### III. Discussion and Commission Findings

The Commission has carefully reviewed the proposed rule change and finds that it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>6</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>7</sup> which, among other things, requires that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Commission believes that Exchange's proposal to permit it the flexibility to determine whether it conducts fingerprint-based criminal record checks of Exchange staff and other persons, or whether it obtains those background checks in another manner, is reasonable and consistent with the Act. The Commission notes that proposed rule change has no effect on the current fingerprinting obligations of Exchange participants and participant firm personnel under the rules of the Exchange or of the Act and the rules thereunder.

### IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> that the

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<sup>5</sup> See Article 6, Rule 10(a) of the Exchange's Rules; see also Section 17(f)(2) of the Act (15 U.S.C. 78q(f)(2)) and Rule 17f-2 thereunder (17 CFR 240.17f-2).

<sup>6</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> 15 U.S.C. 78s(b)(2).

proposed rule change (SR-CHX-2008-03), be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

Florence E. Harmon  
Deputy Secretary

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<sup>9</sup> 17 CFR 200.30-3(a)(12).